IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.21520 of 1998

Dated: 30-03-2007

Between:

C. Ramana Reddy, s/o Munaswamy Reddy.

... Petitioner

and

1. The Commissioner of Survey, Settlements and Land Records, Andhra Pradesh, Hyderabad and 2 others.

... Respondents

ORDER:

This writ petition is filed seeking a *mandamus* to declare the order dated 29-05-1998 passed in C.SS & LR's Ref.No.P3/1682/83 on the file of the Commissioner of Survey, Settlements and Land Records, Andhra Pradesh, Hyderabad, as arbitrary and illegal and consequently to restore the order, dated 15-10-1979 passed in S.R.No.59/11(a)/74/BPM, by the Settlement Officer, Nellore.

2. Facts, in brief, are: Petitioner filed a claim petition under Section 11(a) of the Andhra Pradesh Estates (Abolition and Conversion into Ryotwari) Act, 1956 before the Settlement Officer, Nellore for grant of ryotwari patta in an extent of Ac.5-00, Ac.2-00, Ac.0-20 cents, Ac.0-25 cents, Ac.15-00 and Ac.2-50 cents in Sy.Nos.1, 19/2, 18/4, 72/4, 29 and 25/1 (previously 25/4) respectively of Thambuganipalle village, erstwhile Bangarupalyam taluk and Mandal, Chittoor District. The Settlement Officer, Nellore considering Exs.P1 to P4 produced by petitioner, granted ryotwari patta for the above mentioned extents by order dated 15-10-1979. Against the said order, second respondent filed revision before the Director of Survey Settlements, Andhra Pradesh, Hyderabad and the Director by order dated 04-05-1983 while disallowing the revision confirmed the patta ganted in favour of petitioner by the primary authority. Aggrieved thereby, second respondent preferred further revision before first respondent – Commissioner, and first respondent by order dated
29-05-1998 while confirming the patta granted in respect of S.Nos.25/4 and 72/4 set aside the orders regarding other S.Nos. Assailing the said order, petitioner filed the present writ petition.

3. Heard learned counsel for the parties.

4. The main contention of learned counsel for petitioner is that before the authorities petitioner produced Exs.P1 to P4 documents establishing his title, whereas respondents particularly the third respondent has not chosen to file any documentary evidence either before the primary authority or before the appellate authority, but before the revisional authority i.e. the first respondent he filed certain documents which are referred to in the order impugned. As the said documents were produced for the first time, petitioner could not contest

the same and first respondent also has not afforded sufficient opportunity to petitioner to rebut the said documentary evidence. From a perusal of the order impugned, it is clear that the said documents were produced before first respondent for the first time on 27-01-1998 when the case was taken up for hearing. When such documents are produced, the first respondent ought to have given notice of the said documentary evidence to petitioner and ask him to rebut the same either by oral or documentary evidence. The first respondent had mainly relied on the said documentary evidence in coming to the conclusion that petitioner is not entitled for ryotwari patta insofar as Sy.Nos.29, 19/2 and 18/4 are concerned. Hence, this Court is of the view that first respondent should have given an opportunity to petitioner to rebut the said documentary evidence. Accordingly, the order dated 29-05-1998 passed by first respondent is liable to be set aside.

5. However, as a representation is made by learned counsel for petitioner on behalf of his client stating that to adjudicate the rights or title over the land in question, he may be permitted to approach the Civil Court. In this regard, it is relevant to mention the judgment of the Apex Court in **STATE OF T.N. v. RAMALINGA**[1] which is to the effect that the Settlement Officer's decision either to grant or refuse to grant patta under Section 11 read with the proviso to Section 3 (d) of the Tamilnadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 will not prohibit the Civil Court's jurisdiction to adjudicate on the real nature of the land. Hence, if the petitioner so chooses he is at liberty to approach the Civil Court and agitate his rights.

6. Accordingly, the writ petition is allowed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.30-03-2007
GLV

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[1] AIR 1986 SUPREME COURT 794